IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

WRIT PETITION NO.1164 OF 2006

Messrs Datar Switchgear Limited & anr. Petitioners
vs.
The Commissioner of Central
Excise & Customs, Nasik & ors. Respondents

Mr.C.S.Balsara with Mrs.Mohana Nair i/b.M/s.Mohana Nair
& Associates for the petitioners.

Mr.A.M.Sethna for the respondents.

CORAM : R. M. LODHA &
J. P. DEVADHAR,JJ.

DATED : 24th April, 2006

P.C.

Heard Mr.C.S.Balsara, the counsel for the petitioners. We also perused the order dated 31st October, 2005 passed by the Customs, Excise and Service Tax Appellate Tribunal, Mumbai (for short, 'the Tribunal') whereby the Tribunal permitted the petitioners to deposit a sum of Rs.25,00,000/- (Rupees twenty five lacs) during the period of eight weeks from the date of the order and pre-deposit of balance amount of duty and penalty was waived.

2. The counsel for the petitioner sought to contend that the order of the Commissioner of Central Excise, Nasik suffers from serious error of law. At this stage, it is very difficult to hold that the order of the

Commissioner of Central Excise, Nasik suffers from gross illegality. As a matter of fact, the Tribunal had been quite sympathetic and considerate in substantially waiving the pre-deposit by asking the petitioners to deposit only Rs.25,00,000/- (Rupees twenty five lacs).

3. The impugned order does not call for any interference.

4. Writ petition is dismissed in limine.

5. In the interest of justice, we grant further time of four weeks to the petitioners to deposit the amount of Rs.25,00,000/- (Rupees twenty five lacs) failing which the appeal filed by the petitioners before the Tribunal shall stand dismissed.

(R.M. LODHA,J.)

(J.P. DEVADHAR,J.)